



Billing Code 4310–55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2016–N066; FXES11120800000–156–FF08EVEN00]

Low-Effect Habitat Conservation Plan for The Terrace of Scotts Valley in the City of Scotts Valley, Santa Cruz County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application from Mr. Chris Perri of Apple Homes Development for a 5-year incidental take permit under the Endangered Species Act of 1973, as amended (Act). The application addresses the potential for “take” of the federally endangered Mount Hermon June beetle likely to occur incidental to the construction of 20 new townhomes, garages, and associated landscaping and infrastructure at two existing legal parcels in Scotts Valley, Santa Cruz County, California. We invite comments from the public on the application package, which includes the Low-Effect Habitat Conservation Plan

for The Terrace of Scotts Valley.

DATES: To ensure consideration, please send your written comments by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may download a copy of the Habitat Conservation Plan, draft Environmental Action Statement and Low-Effect Screening Form, and related documents on the Internet at <http://www.fws.gov/ventura/>, or you may request copies of the documents by U.S. mail to our Ventura office or by phone (see **FOR FURTHER INFORMATION CONTACT**). Please address written comments to Stephen P. Henry, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003. You may alternatively send comments by facsimile to (805) 644–3958.

FOR FURTHER INFORMATION CONTACT: Chad Mitcham, Fish and Wildlife Biologist, by U.S. mail to the Ventura office, or by telephone at (831) 768–7794.

SUPPLEMENTARY INFORMATION: We have received an application from Mr. Chris Perri for a 5-year incidental take permit under the Endangered Species Act of 1973, as amended. The application addresses the potential for “take” of the federally endangered Mount Hermon June beetle (*Polyphylla barbata*) likely to occur incidental to the construction of 20 new townhomes, garages, and associated landscaping and infrastructure at two existing legal parcels in Scotts Valley, Santa Cruz County, California. The applicant would implement a conservation program

to minimize and mitigate project activities that are likely to result in take of the Mount Hermon June beetle as described in the plan. We invite comments from the public on the application package, which includes the Low-Effect Habitat Conservation Plan for The Terrace of Scotts Valley. This proposed action has been determined to be eligible for a Categorical Exclusion under the National Environmental Policy Act of 1969, as amended.

Background

The U.S. Fish and Wildlife Service (Service) listed the Mount Hermon June beetle as endangered on January 24, 1997 (62 FR 3616). Section 9 of the Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations prohibit the take of fish or wildlife species listed as endangered or threatened. “Take” is defined under the Act to include the following activities: “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. 1532); however, under section 10(a)(1)(B) of the Act, we may issue permits to authorize incidental take of listed species. The Act defines “Incidental Take” as take that is not the purpose of carrying out of an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are provided at 50 CFR 17.32 and 17.22, respectively. Issuance of an incidental take permit must not jeopardize the existence of federally listed fish, wildlife, or plant species.

Take of listed plants is not prohibited under the Act unless such take would violate State law. As such, take of plants cannot be authorized under an incidental take permit. Plant species may be included on a permit in recognition of the conservation benefits provided them under a habitat conservation plan. All species, including plants, covered by the incidental take permit

receive assurances under our “No Surprises” regulations (50 CFR 17.22(b)(55) and 17.32(b)(5)).

In addition to meeting other specific criteria, actions undertaken through implementation of the

Habitat Conservation Plan (HCP) must not jeopardize the continued existence of federally listed animal or plant species.

Applicant’s Proposal

Mr. Chris Perri (hereafter, the applicant) has submitted a Low-Effect HCP in support of his application for an incidental take permit (ITP) to address take of Mount Hermon June beetle that is likely to occur as the result of direct impacts to up to 2.62 acres (ac) (114,214 square feet (sf)) of degraded sandhills habitat occupied by the species. Take would be associated with the construction of the residential development on two existing parcels legally described as Assessor Parcel Number’s 022-162-69 and 022-162-74. The current site address is 400 Glen Canyon Road in Scotts Valley, Santa Cruz County, California. The applicant is requesting a permit for take of Mount Hermon June beetle that would result from “covered activities” that are related to the construction of 20 townhomes, garages and associated landscaping/infrastructure.

The applicant proposes to avoid, minimize, and mitigate take of Mount Hermon June beetle associated with the covered activities by fully implementing the HCP. The following measures will be implemented: (1) Temporary fencing and signs will be installed to clearly delineate the boundaries of the project; (2) if construction occurs during the flight season (considered to be between May and October, annually), exposed soils will be covered with erosion control fabric or other impervious materials to prevent any dispersing Mount Hermon

June beetles from burrowing into exposed soil at the construction site; (3) employment of a Service-approved entomologist to capture and relocate into suitable habitat and out of harm's way any Mount Hermon June beetle larvae unearthed during construction activities; (4) all outdoor night lighting will use light bulbs certified not to attract nocturnally active insects, in order to minimize disruption of Mount Hermon June beetle breeding behavior during the adult flight season; and (5) secure off-site mitigation at a ratio of 1:1 to mitigate for permanent habitat impacts through the acquisition of 2.62 ac (114,214 sf) of conservation credits at the Zayante Sandhills Conservation Bank. The applicant will fund up to \$733,284 to ensure implementation of all minimization measures, monitoring, and reporting requirements identified in the HCP.

In the proposed HCP, the applicant considers two alternatives to the proposed action: "No Action" and "Redesigned Project." Under the "No Action" alternative, an ITP for the Terrace at Scotts Valley would not be issued. The Terrace at Scotts Valley would not be built, and the purchase of conservation credits would not be provided to effect recovery actions for Mount Hermon June beetle. Additionally, since the property is privately owned, there are ongoing economic considerations associated with continued ownership without use, which includes payment of associated taxes. The sale of this property for purposes other than the identified activity is not considered economically feasible. Because of economic considerations and because the proposed action results in a net benefit for the covered species, the No Action Alternative has been rejected. Under the "Redesigned Project" alternative, the project would be redesigned to avoid or further reduce take of Mount Hermon June beetle. The proposed project has already been designed to minimize impacts to the species as the project area does not contain Zayante sands, the preferred habitat of the species. Reduction in

the size of the development would not result in a significant reduction in take and is not practical. Additionally, the proposed project provides greater habitat conservation as the purchase of conservation credits at a ratio of 1:1 would result in the protection and management of preferred habitat for the species. As such, the “Project Redesign” alternative has also been rejected.

Our Preliminary Determination

We are requesting comments on our preliminary determination that the applicant’s proposal will have a minor or negligible effect on the Mount Hermon June beetle and that the plan qualifies as a low-effect HCP as defined by our Habitat Conservation Planning Handbook (November 1996). We base our determinations on three criteria: (1) Implementation of the proposed project as described in the HCP would result in minor or negligible effects on federally listed, proposed, and/or candidate species and their habitats; (2) implementation of the HCP would result in minor or negligible effects on other environmental values or resources; and (3) HCP impacts, considered together with those of other past, present, and reasonably foreseeable future projects, would not result in cumulatively significant effects. In our analysis of these criteria, we have made a preliminary determination that the approval of the HCP and issuance of an ITP qualify for categorical exclusion under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.), as provided by the Department of the Interior implementing regulations in part 46 of title 43 of the Code of Federal Regulations (43 CFR 46.205, 46.210, and 46.215). However, based upon our review of public comments that we receive in response to this notice, this preliminary determination may be revised.

Next Steps

We will evaluate the permit application, including the plan and comments we receive, to determine whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will also evaluate whether issuance of the ITP would comply with section 7(a)(2) of the Act by conducting an intra-Service Section 7 consultation.

Public Review

We provide this notice under section 10(c) of the Act and the National Environmental Policy Act of 1969, as amended (NEPA), NEPA's public involvement regulations (40 CFR 1500.1(b), 1500.2(d), and 1506.6). We are requesting comments on our determination that the applicants' proposal will have a minor or negligible effect on the Mount Hermon June beetle and that the plan qualifies as a low-effect HCP as defined by our 1996 Habitat Conservation Planning Handbook. We will evaluate the permit application, including the plan and comments, we receive, to determine whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will use the results of our internal Service consultation, in combination with the above findings, in our final analysis to determine whether to issue the permits. If the requirements are met, we will issue an ITP to the applicant for the incidental take of Mount Hermon June beetle. We will make the final permit decision no sooner than 30 days after the date of this notice.

Public Comments

If you wish to comment on the permit applications, plans, and associated documents, you may submit comments by any one of the methods in **ADDRESSES**.

Public Availability of Comments

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Dated: __March 29, 2016.

Stephen P. Henry,

Field Supervisor,

Ventura Fish and Wildlife Office, Ventura, California.

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